IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5155 of 2005
WITH
SPECIAL CIVIL APPLNS. NOS. 6034 TO 6036 OF 2005

For Approval and Signature:

THE HON'BLE MR.JUSTICE KSHITIJ R.VYAS
THE HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AKTAR HUSEIN GULAM MOHIDDIN SHEIKH & 4 - Petitioner(s)
Versus
SURAT MUNICIPAL CORPORATION & 2 - Respondent(s)

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Appearance :
MR VD PARGHI for Petitioner No(s).: 1,2,3,4.
MR PRASHANT G DESAI for Respondent No(s).: 1.
MR HL JANI, AGP for Respondent No(s).: 2.

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CORAM :THE HON'BLE MR.JUSTICE KSHITIJ R.VYAS
THE HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date : 22/06/2005

ORAL COMMON JUDGMENT

(Per : THE HON'BLE MR.JUSTICE AKSHAY H.MEHTA)

Rule. Mr. Prashant G Desai, learned advocate waives service of rule for respondent no. 1 and Mr. HL Jani, Ld. AGP waives service of rule for respondent no. 2.

2. In these petitions grievance of the petitioners is that they are to be deprived of their premises without providing them with the alternative accommodation by respondent no. 1. The petitioners are occupants of premises which are situated on survey no. 292 of Udhna, Taluka Choryasi, District Surat. They have prayed for the writ of mandamus to direct the respondents to provide them alternative accommodation.

3. We have heard Mr. VD Parghi, learned advocate for the petitioners and Mr. PG Desai, learned advocate for respondent no. 1 and Mr. HL Jani, Ld. AGP for respondent no. 2.

4. Averments made in the petition show that the petitioners are occupying properties which are situated on survey no. 292 of Udhna, Taluka Choryasi, District Surat. Mr. PG Desai, learned advocate for respondent no. 1 stated that when the premises of petitioners are falling within the road line and they will be demolished, but before that the petitioners will be granted suitable alternative accommodation as per the procedure prescribed under the scheme of respondent no. 1 for allotment of alternative accommodation. In view of the same, following directions are issued :-

I. The petitioners shall make applications praying for allotment of alternative accommodation to respondent no. 1 within 15 days from the date of this order.

II. Upon receipt of such applications, the respondent no. 1 shall ascertain the eligibility of the concerned petitioners for entitlement of alternative accommodation and if they are found entitled to receive such accommodation, respondent no. 1 will follow the usual procedure for allotment.

III. So far the entitlement or eligibility of the petitioners is concerned, it will be decided within 15 days from the date of receipt of applications and respondent no. 1 will communicate the same to the petitioners.

IV. If any-one is occupying residential premises, his/her possession shall not be disturbed till 15th October, 2005 as per the assurance given by Mr. Desai.

V. The persons who have already been allotted alternative sites are vacant plots of land and if such petitioners apply for grant of reasonable time to respondent no. 1 for putting up construction, the Corporation shall consider their applications sympathetically.

With these directions, the petition is disposed of. Rule made absolute to the aforesaid extent.

[Kshitij R Vyas, J.]

[Akshay H Mehta, J.]

* Pansala.